

A RESOLUTION

BY THE PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING THE SETTLEMENT OF ALL CLAIMS AGAINST THE CITY OF ATLANTA IN THE CASE OF FAIRBURN ROAD ASSOCIATES, LLC V. CITY OF ATLANTA, SUPERIOR COURT, FULTON COUNTY, CIVIL ACTION FILE NO. 2004CV82008, IN THE AMOUNT OF \$46,819.12; AUTHORIZING SAID PAYMENT TO BE CHARGED TO AND PAID FROM FUND 2J01 (WATER & SEWER REVENUE FUND), ACCOUNT 529017 (PROPERTY LIQUIDATION) AND CENTER NUMBER Q30001 (DEPUTY COMMISIONER, TREATMENT & COLLECTIONS); AUTHORIZING THE CHIEF FINANCIAL OFFICER TO DISTRIBUTE THE SETTLEMENT AMOUNT; AND FOR OTHER PURPOSES.

WHEREAS *Fairburn Road Associates, LLC v. City Of Atlanta* is a case in which the Plaintiff, Fairburn Road Associates LLC, is suing for damages it allegedly incurred when the City of Atlanta Department of Watershed Management twice caused several hundred thousand gallons of water to flow unobstructed across Plaintiff's property, which was under development for residential dwellings;

WHEREAS, Plaintiff alleges that the City of Atlanta flushed a city water line for several hours on November 8, 2003;

WHEREAS, Plaintiff alleges that the City of Atlanta flushed the same water line on November 10, 2003 ;

WHEREAS, the water that was flushed out of the City of Atlanta water line traveled unobstructed onto Plaintiff's property which was being developed;

WHEREAS, by traveling unobstructed onto Plaintiff's property it caused damages to Plaintiff's site which was being developed for residential dwellings; and

WHEREAS, Plaintiff asserts a claim for negligence and nuisance; and

WHEREAS, after discovery and conferences with the City of Atlanta Department of Watershed Management, Bureau of Drinking Water, city employees twice flushed the subject water line, causing water to flow unobstructed onto Plaintiff's property;

WHEREAS, Plaintiff suffered damages and expenses in the clean-up of its development site;

WHEREAS, Plaintiff has agreed to accept \$46,819.12 in full settlement of all claims against the City of Atlanta including attorney's fees; and

WHEREAS, the City Attorney has done extensive review of the facts and the law and has determined that the City's potential financial exposure in defending Plaintiff's claims is in excess of the settlement amount; and

WHEREAS, the City Attorney considers it to be in the best interest of the City to pay the amount of \$46,819.12 to settle all claims against the City of Atlanta.

THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA hereby resolves as follows:

SECTION 1. The City Attorney is hereby authorized to settle the case of *Fairburn Road Associates, LLC v. City of Atlanta* in the amount of Forty-Six Thousand and Eight Hundred and Nineteen Dollars and Twelve Cents (\$46,819.12).

SECTION 2. Said payment is to be charged to and paid from Fund 2J01 (Water & Sewer Revenue Fund), Account 529017 (Property Liquidation) and Center Number Q30001 (Deputy Commissioner, Treatment & Collections). Payment shall be in the form of a check in the amount of \$46,819.12, payable to Attorney Duane D. Pritchett of Wilson Brock & Irby, LLC on behalf of Fairburn

Road Associates, LLC. Such payment shall be in full consideration of the dismissal of all claims against the City of Atlanta, and its current and former officers and employees.